

MAY 28 2008

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION  
UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

ARTUR AZATYAN,

Petitioner,

v.

MICHAEL B. MUKASEY, Attorney  
General,

Respondent.

No. 05-74837

Agency No. A97-115-020

MEMORANDUM<sup>\*</sup>

On Petition for Review of an Order of the  
Board of Immigration Appeals

Submitted May 20, 2008<sup>\*\*</sup>

Before: PREGERSON, LEAVY, and TASHIMA, Circuit Judges.

Artur Azatyan, a native and citizen of Armenia, petitions for review of the Board of Immigration Appeals' ("BIA") order dismissing his appeal from an immigration judge's ("IJ") decision denying his application for asylum,

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<sup>\*</sup> This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

<sup>\*\*</sup> The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

withholding of removal, and protection under the Convention Against Torture (“CAT”). We have jurisdiction under 8 U.S.C. § 1252. We review for substantial evidence an IJ’s credibility determination and will uphold the agency’s decision unless the evidence compels a contrary conclusion. *See Kaur v. Gonzales*, 418 F.3d 1061, 1064 (9th Cir. 2005). We deny the petition for review.

The record does not compel the conclusion that Azatyan’s asylum application was timely filed or that the untimely filing of the asylum application should be excused. *See Ramadan v. Gonzales*, 479 F.3d 646, 648, 656 (9th Cir. 2007).

Substantial evidence supports the IJ’s credibility determination. Azatyan testified inconsistently regarding whether he fled Armenia because his life was in danger and he had suffered persecution, or instead whether he left Armenia to pursue his studies and only feared returning because he later learned that circumstances had changed. *See Li v. Ashcroft*, 378 F.3d 959, 962 (9th Cir. 2004). This inconsistency goes to the heart of his claim and is sufficient to support the IJ’s adverse credibility determination. *See Chebchoub v. INS*, 257 F.3d 1038, 1043 (9th Cir. 2001). In the absence of credible testimony, Azatyan has failed to establish that he is eligible for withholding of removal. *See Farah v. Ashcroft*, 348 F.3d 1153, 1156–57 (9th Cir. 2003).

Substantial evidence supports the BIA's denial of CAT protection. Azatyan has failed to demonstrate that it is more likely than not that he will be tortured by or with the acquiescence of the government if removed to Armenia. *See Zheng v. Ashcroft*, 332 F.3d 1186, 1194–95 (9th Cir. 2003).

**PETITION FOR REVIEW DENIED.**